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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of:)
George Michael MOCKRY et al.) Group Art Unit: 3711
Serial No.: 09/878,860) Examiner: M. Chambers
Filed: May 10, 2002) Attorney Docket No.: 006385.00001

For: **METHOD OF RECORDING AND PLAYING BASEBALL GAME SHOWING
EACH BATTER'S LAST PITCH**

RENEWED PETITION FOR CORRECTED FILING DATE

Office of Petitions:

Attention John J. Gillon, Jr.
Commissioner of Patents
Washington, D.C. 20231

Sir:

This is a renewed petition requesting that the subject application be accorded a filing date of June 9, 2001, the date that the inventors fully complied with 37 C.F.R. 1.53(b) by filing in accordance with 37 C.F.R. 1.10, a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to §1.71 and at least one claim pursuant to §1.75.

The petition is filed under 37 C.F.R. 1.181(a)(2) pursuant to 37 C.F.R. 1.53(e)(2). Applicants' undersigned representative requests that any fee that may be required pursuant to 37 C.F.R. §§1.17(h) or otherwise in order to consider this petition, be charged to our Deposit Account No. 19-0733. To the extent applicants may later be entitled to a refund of any fee so-charged, it should be credited to our Deposit Account No. 19-0733.

Applicants timely sought the requested relief in a first petition, filed May 10, 2002 responsive to a Notice of Incomplete Nonprovisional Application mailed March 15, 2002. That

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petition was DISMISSED is a decision mailed August 14, 2002 and the application was accorded a filing date of May 10, 2002. Applicants then filed, on October 7, 2002, a Petition to Reconsider Refusal to Grant Filing Date. That petition was treated as a renewed petition under 37 C.F.R. 1.10 and 37 C.F.R. 1.53 and the petition was again DISMISSED in a decision mailed November 18, 2002.

In the time since the last dismissal, applicants have searched for new counsel and received an Office Action on the merits of their application on May 28, 2003. Applicants retained the undersigned on or about August 1, 2003 and the undersigned recently filed an amendment and response to the Office Action on August 27, 2003. Applicants request that this renewed petition be considered timely under 37 C.F.R. 1.181(f).

On August 26, 2003 applicants' undersigned representative informally discussed the filing of a renewed petition with Senior Attorney Gillon and the nature of the facts and circumstances that were not fully considered in dismissing the prior petitions. Those facts and circumstances are fully discussed in this petition.

I. STATEMENT OF FACTS¹

1. On June 13, 2000, applicants George Michael Mockry and Gregory Michael Mockry filed provisional application Serial No. 60/211,208 with the assistance of counsel. (Exhibit C).
2. In order to be entitled to the benefit of that provisional application, a nonprovisional application claiming its benefit had to be filed by June 13, 2001 (35 U.S.C. 119(e)).
3. On June 4, 2001, George Mockry (hereafter Mockry) informed his counsel of his intention to file the nonprovisional application *pro se* and requested that he provide the documents needed to pursue the nonprovisional application. (MD2¶¶3-4).
4. On June 5, counsel forwarded by facsimile to Mockry a New Application Transmittal form, a copy of the provisional application, its original cover sheet and a small entity

¹ Citation to MD1¶1 refers to paragraph 1 of the first declaration of George Mockry filed with the first petition (a copy of that declaration is submitted as Attachment A to this petition and has been annotated with paragraph numbers). Citation to MD2¶1 refers to paragraph 1 of the second declaration of George Mockry first filed with this petition as Attachment B.

verified statement filed with the provisional application, and a declaration form. (MD2¶¶5-6).

5. The New Application Transmittal form specified a "Patent application including 2 pages of specification" and further indentified as enclosures "4 papers on original provisional," which constituted 4 pages (MD2¶¶6-Exhibit 2).
6. Mockry used the papers forwarded to him by facsimile by counsel, added a page of claims, a self-addressed post card and a cashiers check and mailed the documents to the U.S. Patent and Trademark Office by Express Mail on June 9, 2001. (MD1¶2; MD2¶¶8-9).
7. Mockry upon preparing the post card specifically indentified the "New Application Transmittal" form as the first item on the post card, identified the 4 papers (4 pages) from the original provisional application provided to him by counsel as "4 original copies of provisional," identified the "1 page of claims" as "Page 'claims'" and identified the declaration as "2 declaration forms." (MD2¶¶8&10-Exhibit 5).
8. Mockry subsequently received the self-addressed post card from the United States Patent and Trademark Office with the only addition to the postcard he filed the added imprint of an application identifying serial number and a filing date, viz. 09/878860 and 06/09/01 (MD1¶3; MD2¶10).
9. Sometime between December 20, 2001 and January 25, 2002, Mockry also received a Filing Receipt from the United States Patent and Trademark Office identifying the application number 09/878,860 with a filing date of June 9, 2001. (MD2¶11-Exhibit 6).
10. The Filing Receipt identified the Group Art Unit of the application as 3711, acknowledged the claim to benefit of the previously filed Provisional Application 60/211,208 and granted a foreign filing license to the application as of December 20, 2001. (MD2 – Exhibit 6).
11. On March 15, 2002 the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Nonprovisional Application to Mockry. (Exhibit D).

12. The United States Patent and Trademark Office published application Serial No. 09/878,860 as Pub No. US 2003/0060311 on March 27, 2003. (Exhibit E).

II. POINTS TO BE REVIEWED AND THE REQUESTED RELIEF

Applicants submit that these facts, when viewed as a whole, demonstrate that the subject application should be accorded a filing date of June 9, 2001, the date that the inventors fully complied with 37 C.F.R. 1.53(b) by filing, in accordance with 37 C.F.R. 1.10, a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to §1.71 and at least one claim pursuant to §1.75.

In dismissing the earlier petitions, the Commissioner narrowly focused the review of the facts and circumstances surrounding compliance with Rule 53 and the assignment of a filing date for applicants' nonprovisional application solely on the contents itemized by the self-addressed post card and neglected to give full consideration to the entirety of the evidence presented by applicants.

A. The Original Decisions

The decision mailed August 14, 2002 (the first decision) indicated that the "best evidence of what was filed on June 9, 2001" was applicants' post card receipt. The first decision criticizes the post card receipt because it "does not identify the number of pages filed in the specification." Acknowledging that the post card did specify that "4 Original Copies of Provisional" were listed and "filed," but purportedly relying on the MPEP, the first decision concludes that the "postcard receipt fails to demonstrate that a written description of the invention was present."

In the following decision mailed on November 18, 2002 (the second decision), the decision also criticizes the receipt postcard as not sufficiently detailing "the contents more specifically than 'copies of provisional'—e.g, there is no indication as to what provisional is being referenced, the number of pages included, or the elements contained therein." As with the first decision, reliance was placed on the portion of MPEP Section 503 relating to

postcard receipts. In disregarding the importance of the Filing Receipt mailed on December 20, 2001, the second decision incorrectly asserts that “the language of the receipt indicates that changes may be expected.”²

B. Summary of Argument

Applicants are entitled to a filing date of June 9, 2001 because (1) MPEP §503 makes the issuance of a filing receipt by the USPTO *prima facie* evidence of compliance with Rule 53(b), (2) when the evidence in the PTO’s records is considered as a whole it is apparent that the inventors fully complied with 37 C.F.R. 1.53(b) by filing, in accordance with 37 C.F.R. 1.10, a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to §1.71 and at least one claim pursuant to §1.75 and (3) the spirit, if not the letter, of MPEP §503 was satisfied by these *pro se* applicants and the postcard receipt that one of the inventors prepared.

C. The December 2002 Filing Receipt is *Prima Facie* Evidence of Applicants’ Compliance with Rule 53(b)

MPEP §503 states unequivocally:

OIPE mails a filing receipt to the attorney or agent, if any, otherwise to the applicant, for each application **which meets the minimum requirements to receive a filing date.** (Emphasis added)

The filing receipt represents the **official assignment by the USPTO of a specific application number and confirmation number to a particular application.** See 37 CFR 1.54(b). (Emphasis added)

...as between inconsistent filing receipts and postcard receipts, the application number on the filing receipt is controlling.

² There is nothing on the filing receipt to indicate that changes could be expected. The receipt simply alerts applicants to review the paper for inaccurate information, e.g. the consequence of typographical errors by the Office.

**The filing receipt will be mailed at the time a
detrmination is made that the application meets the minimum
requirements to receive a filing date. (Emphasis added)**

Here, a filing receipt was mailed to applicants in December 2001, long prior to the date the Office issued the Notice in March 2002. Based on the USPTO's own rules, the complete application, thus was receiced and processed by OPIE. It was not until after that date that the USPTO apparently lost the application.

Thus, as of December 20, 2001, the USPTO confirmed that Mockry had filed papers that met the minimum requirements for the application to receive a filing date – that is a written description and at least one claim were provided. In the absence of satisfying those requirements, the filing receipt never should have issued. It was not until sometime after comfirming the proper filing of the application that the USPTO apparently lost applicants' written specification.

Unless the USPTO is going to assume that it did not comply with a pair of its own regulations (incuding both the issuance of the filing receipt and the handling of the return postcard (see section II.E., *infra*)) and thus ignore the long accepted principal of administrative regularity, the facts of this case demand the conclusion that a written description was received and processed by the USPTO following the filing of the application on June 9, 2001. As demonstrated by the Mockry declarations and as discussed in more detail below, that application was identical to the earlier filed Priovisional application. It was only after the issuance of the December 2001 filing receipt that the USPTO somehow misplaced that application. When viewed together, that December 2001 filing receipt, which acknowledges the claim to priority to the earlier provisional application by both serial number and filing date, together with the postcard receipt and the Mockry declarations, present a coherent and persuasive picture confirming that the original two page provisional application constituted the written description filed on June 9, 2001.

While this consistent picture is developed more fully in the following section, we submit

that the USPTO should be bound by its own rules and must accept its own actions and provide the subject application with the original June 9, 2001 filing date.

D. The Record as a Whole is Consistent With The June 9, 2001 Filing Date

We submit that when the complete picture of actions by both applicant and the Office is considered, the unmistakable conclusion is that the inventors fully complied with 37 C.F.R. 1.53(b) by filing, in accordance with 37 C.F.R. 1.10, a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to §1.71 and at least one claim pursuant to §1.75.

Following the filing of the application by Mockry on June 6, 2001, and pursuant to MPEP §503, once the Patent Office received the application papers:

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.

Here, Mockry received the return postcard with NOT A SINGLE ITEM indicated as missing. The only logical conclusion is that all of the listed items were received and processed by the OIPE.

Next, the OIPE mailed Mockry a filing receipt on December 20, 2001. While this was six months after the filing date, it was not an unreasonable delay. In that filing receipt, the Patent Office acknowledged the priority benefit claimed under the provisional – specifically identifying the provisional number. The second decision had faulted the postcard for not indicating what provisional was being referenced. However, from this file receipt issued by the OIPE it is irrefutable that the USPTO knew what provisional was referenced. Moreover, the content of that provisional is immutably fixed in the records of the USPTO. The OIPE filing receipt also granted applicants a foreign filing license, an event that required someone to review the application

papers and reach a conclusion that the application did not contain anything that need to be subjected to a secrecy order (MPEP §115). The filing receipt also assigned the application to a group art unit, the same art unit now examining the application. This action also required an understanding of what the application disclosed/described.

The filing receipt also identified the date of publication as March 28, 2002. Instead of publishing the application in March 2002, however, the OIPE next mailed a Notice of Incomplete Nonprovisional Application (Notice) to applicants on March 15, 2002. This occurred over nine months after applicants had filed their application and just two weeks before the application was to be published. The timing is not simply a coincidence, it appears unmistakable that the USPTO somehow misplaced applicants 4 pages of application – (the two page specification of the earlier provisional application, the provisional cover sheet and the verified statement which Mockry has testified by declaration that he filed) around the time it was initially set for publication and since they had no specification to publish, the Notice was issued. Applicants responded to the Notice and were accorded the belated filing date of May 10, 2002 as a consequence.

The irregularities of the USPTO's conduct do not end here, however. Somehow the USPTO decided to publish the application on March 27, 2003. This is only ten (10) months after the application's filing date of May 10, 2002. Because the USPTO denied applicants the June 9, 2001 filing date – the original provisional filing of June 13, 2000 was not available as a benefit application, and thus could not constitute an earlier filed application. Under 37 C.F.R. §1,211(a), an application is to be published "after the expiration of a period of eighteen months from the earliest filing date." The eighteen month period required by the rule will not expire until November 10, 2003, a date that still has not yet arrived. Here, that rule either was violated by the USPTO, or possibly the misplaced "specification" was located and published seasonably after it was located, with the Publication Branch of the USPTO determining that the application should be entitled to the June 9, 2001 filing date. The actions of the USPTO must be consistent and the USPTO cannot be permitted to ignore their own rules.

When the record and action of the USPTO are viewed as a whole, one is left with the

unmistakable conclusion that the USPTO accepted the June 9, 2001 filing of the original provisional application, which applicant has testified he filed, as the specification of the subsequent nonprovisional application and generally acted consistent with that acceptance, save for the wrongful issuance of the Notice.

Any concern by the USPTO that applicants can somehow avoid the new matter prohibition in this circumstance is completely unjustified. The content of the original provisional is fixed in the USPTO's records. Indeed, the USPTO had custody of that document since June 2000. It is that very same document that Mockry declares was filed as the nonprovisional application in June 2001. The postcard receipt and the other papers filed on June 9, 2001, including especially the Transmittal and the Declaration, identify the provisional by serial number and file date and thus unmistakably link the nonprovisional filing to the earlier provisional. The issuance of the filing receipt in December 2001 is additional direct, corroborating evidence of the USPTO's contemporaneous recognition of that link. It is illogical to question the filing date solely because of a minor ambiguity in the receipt postcard (see Section II.E. below), when the overall record so consistently supports the June 9, 2001 date.

E. Postcard receipt of MPEP §503

In the first decision, the MPEP is quoted as follows:

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be itemized on the postcard.

Applicant's postcard itemized the following as the contents of the filing:

- (1) New Application Transmittal
- (2) 4 Original Copies of Provisional
- (3) Page "Claims"
- (4) Cashiers Check for \$355.00
- (5) 2 Declaration Forms
- (6) Self Addressed Post Card

The MPEP admonishes that merely listing "a complete application" or "patent application" does not serve to identify the component parts. But that is NOT what this *pro se* applicant did. The postcard does itemize each of the component parts that were submitted. Comparing the itemized list of the postcard to the MPEP instructions, one sees that each of the component parts are separately listed, viz. the claims are specified (item 3), the declaration is specified (item 5), the filing fee is specified (item 4) and contrary to the previous decisions the specification is specified (item 2) "4 Original Copies of Provisional." What else could this item constitute? Applicant was submitting a patent application.

The *pro se* applicants simply ask that common sense not be left out of the review of their actions and the supporting documentation. Mockry's declarations show that he used the word "copies" inartfully as a synonym for pages or papers. The failure of the Office to recognize and accept the inartful use of "copies" instead of pages by Mockry now should be corrected. Mockry's declarations have identified the four "copies" or papers/pages of the provisional that were filed. Moreover, as discussed above (in section II.D.) entitled "The Record as a Whole is Consistent with the June 9, 2001 Filing Date," the Office's other actions provide corroboration for applicants' compliance with MPEP §503 and with Rule 53(b).

The record demonstrates that the "4 Original Copies of Provisional" constitute a copy of the original provisional application, a two page document, a copy of the original provisional cover sheet, a one page document, and a copy of the verified statement of Greg M. Mockry filed with the original provisional application, a one page document. All told four pages of material. The fact that the cover sheet and verified statement might be objectionable as part of the

specification is irrelevant – the remaining two pages satisfy the statutory requirement of the specification.

We submit that the situation would not be any different if the postcard had said four pages of specification, if the *pro se* applicant submitted the four pages that were actually submitted and if the Office again lost all of, or at least the 2 key pages of the submission – *i.e.*, the 2 page provisional. The only difference would be that the letter of MPEP §503 would be satisfied and then applicants apparently would be *prima facie* entitled to their filing date when they later provided another copy of the four pages that were filed. In this hypothetical case, the office would not be in any better position to evaluate what was filed and what the Office lost or misplaced.

Applicants thus renew their request that the subject application be accorded a filing date of June 9, 2001, the date that the inventors fully complied with 37 C.F.R. 1.53(b) by filing in accordance with 37 C.F.R. 1.10, a specification (in this case an identical copy of their earlier provisional application) as prescribed by 35 U.S.C. 112 containing a description pursuant to §1.71 and at least one claim pursuant to §1.75. The grant of this petition is respectfully requested.

Respectfully submitted,

BANNER & WITCOFF, LTD.

By: 

Joseph M. Skerpon

Registration No. 29,864

Date: September 9, 2003

1001 G Street, N.W.
Washington, D.C. 20001-4597
(202) 824-3000
JMS/



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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: G. Mockry et al.
Ser. No. 09/878,860
Filed June 9, 2001
For: "Baseball Quick"(as amended)

Atty Docket No. 530.005PA
April 1, 2002
Art Unit: 3711
Examiner:

SUPPORTING DECLARATION OF GEORGE MOCKRY

Office of Petitions
Hon. Commissioner for Patents
Washington, DC 20231

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Sir:

The undersigned hereby declares as follows:

1. My name is George Mockry, United States citizen now residing in Cortez, Colorado, and at the time of the filing of provisional application Ser. No. 60/211,208, a resident of Sheridan, Wyoming. I am one of the two joint inventors of the subject matter of this patent application, the other joint inventor being Greg M. Mockry, a United States Citizen and resident of Massena, New York.
2. During the first week of June, 2001, Greg. M. Mockry and I decided to file a regular non-provisional application based on our then-pending provisional application, Ser. No. 60/211,208, filed June 13, 2000. I assembled all the required papers, including Declarations signed respectively by myself and Greg M. Mockry; a specification, which was in the form of a complete copy of the above-mentioned provisional application Ser. No. 60/211,202; a page of Claims; a cashier's check from Citizens State Bank of Cortez for \$355.00; and a self-addressed stamped post card that listed each item being submitted. I then placed these materials into an envelope addressed to the Commissioner of Patents with sufficient postage for Express Mail. This envelope was deposited with the United States Postal Service on June 9, 2001.
3. A few days later I received back the return receipt post card, which now carried indicia

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showing the filing date (06/09/01) and the application serial number (09/878860). The exhibit attached hereto is a true copy of the said return receipt post card. The post card has not been altered in any way since I received it.

The undersigned further declares that all statements appearing above that are made of his own knowledge are true, and all statements made on information and belief are believed to be true, and further these statements were made that any willful false statements or the like so made may be punishable by fine, or imprisonment, or both under Section 2001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this statement is directed.

George Mockry

Signed

George Mockry
Dated this 15 th day of April, 2002.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of:)
George Michael MOCKRY et al.) Group Art Unit: 3711
Serial No.: 09/878,860) Examiner: M. Chambers
Filed: May 10, 2002) Attorney Docket No.: 006385.00001

For: **METHOD OF RECORDING AND PLAYING BASEBALL GAME SHOWING
EACH BATTER'S LAST PITCH**

SECOND DECLARATION OF GEORGE MOCKRY

Sir:

The undersigned hereby declares as follows:

1. I am the same George Mockry who previously submitted a declaration in the subject application signed on April 15, 2003.
2. This declaration supplements my earlier declaration.
3. When Greg Mockry and I decided to file the non-provisional application in June 2001, we had run low on money so we wanted to minimize our use of attorneys in order to minimize costs.
4. Thus, on June 4, 2001, I contacted the attorney, Bernhard P. Molldrem, Jr., who had assisted us in preparing our original provisional application, 60/211,208, to let him know our intention to pursue the non-provisional without assistance of counsel and to obtain from him copies of the materials I needed to file the non-provisional application.
5. On June 5, 2001, Mr. Molldrem transmitted several documents to me by facsimile under cover of a Fax Transmission cover sheet, which I append to this declaration as Exhibit 1.
6. Enclosed with Mr. Moldrem's facsimile were (1) a New Application Transmittal form

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Atty. Docket No. 006385.00001

which Mr. Molldrem had prepared for me, and which I attach to this declaration as Exhibit 2, (2) a copy of the original provisional application (2 pages of text), (3) a copy of a verified statement previously executed by Greg Mockry, which I attach to this declaration as Exhibit 3, (4) a copy of the original Provisional Application cover sheet and (5) the original declaration form for filing a non-provisional application, an executed copy of which I attach to this declaration as Exhibit 4.

7. I used the documents sent to me by Mr. Molldrem with his facsimile transmittal of June 5, 2001 to pursue the non-provisional filing, which I sent to the U.S. Patent and Trademark Office by Express Mail on June 9, 2001, the day after I executed the declaration.
8. The papers which I submitted to the U.S. Patent and Trademark Office on June 9, 2001, as explained in my earlier declaration, included (1) the new application Transmittal form (Exhibit 2), (2) the two page provisional application, the provisional cover sheet and the verified statement of Greg Mockry (Exhibit 3) a total of 4 pages (this was identified as "4 papers on original provisional" on the New Application Transmittal which I received from my counsel and I identified the 4 pages as "4 Original Copies of Provisional" on the return post card which I prepared and filed), (3) a single page of claims, (4) the declaration (Exhibit 4)(identified on the New Application Transmittal as "2 declaration pages" and on the return post card as "2 declaration forms," (5) the pre-posted return post card which I had filled out and (6) the cashiers check for the filing fee.
9. For convenience, I attach as Exhibit 5, another copy of the return post card that I prepared and that was returned by the U.S. Patent and Trademark Office to me showing a filing date of June 6, 2001 and the assigned Serial No. 09/878860 for the non-provisional application.
10. Subsequent to the June 9, 2001 filing date and sometime before January 25, 2002, I received a Filing Receipt from the U.S. Patent and Trademark Office for application Serial No. 09/878,860, which I attach to this declaration as Exhibit 6.

Atty. Docket No. 006385.00001

The undersigned further declares that all statements appearing above that are made of his own knowledge are true, and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

By. George Mockry
George Mockry

Executed this 8 day of September 2003

FAX TRANSMISSION

BERNHARD P. MOLLDREM

333 EAST ONONDAGA STREET

SYRACUSE, NY 13202

(315) 422-4323

FAX: (315) 422-4318

To: George Mockry **Date:** June 5, 2001
Fax #: (970) 385-6831 *565 4635* **Pages:** Nine, including this cover sheet.
From: Bernhard P. Molldrem, Jr.
Subject: Baseball Quick

COMMENTS:

As I mentioned to you yesterday, you and Greg can file an application on your own, claiming benefit of the provisional application 60/211,208, and this will let you continue until you are ready to follow up. This will be a regular application and will eventually get examined. You can use as a minimum the text of the provisional application, but you will have to add at least one claim, on a separate page titled "Claims". The claim has to start with a number and end in a period, and is basically the predicate of the sentence that would start "What I (we) claim is ---- . I would suggest using one to three claims. There is a filing fee of \$355, that has to be paid up front, made out to the Commissioner of Patents and Trademarks. Send the complete application, via Express Mail, to Commissioner for Patents, Washington DC 20231. There should be a cover page, stating what is contained, and also indicating you are claiming small entity status. Attach a self-addressed, stamped post card listing the items you are enclosing: that will be your receipt, and will be stamped with the filing date and serial number. You will have to complete the Declaration form with both yours and Greg's signatures, plus names, addresses, etc. Have them send correspondence to you.

The claim should say basically -- 1 A method of recording and editing a baseball game by (a) recording the at-bats for each player in turn plus other action that ensues after or during the at-bats; (b) editing the recorded game to leave only the last pitch thrown to each batter during his turn at bat and any attempts of runners on base to advance to another base; and (c) presenting the edited recorded game as a condensed recorded game showing the important action portions of the game. --

Bernhard P. Molldrem, Jr.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mockry, George *AND MOCKRY, GREG*
 Invention: Method of Recording *A BASEBALL GAME*

*CLAIMING BENEFIT OF
 PROVISIONAL APPLICATION
 60/211,208*

COMMISSIONER FOR PATENTS

WASHINGTON, D.C. 20231 -- BOX PATENT APPLICATION

NEW APPLICATION TRANSMITTAL (SMALL ENTITY)

Sir:

Transmitted herewith for filing is the above-identified patent application of the above-identified inventor.

(1) Patent application including 2 pages of specification, claims, abstract, and 0 sheets of formal drawings.

(2) Combined Declaration and Power of Attorney.

(3) Applicants claim Small Entity Status.

(4) Check for \$ 355.00 including application filing fee of \$ 355.00, calculated as follows:

| | CLAIMS AS FILED | EXCESS OVER BASIC | RATE | FEE |
|------------------|-----------------|-------------------|----------|--------|
| BASIC FEE | -- | -- | -- | \$ 355 |
| TOTAL CLAIMS | | (Minus 20 =) 0 | X \$09 = | \$ 0 |
| INDEP CLAIMS | | (Minus 3 =) 0 | X \$40 = | \$ 0 |
| TOTAL FILING FEE | | | | \$ 355 |

Also enclosed are:

This new application

4 papers on original provisional

1 page of claims

2 declaration pages

Self addressed post card (receipt)

Cashiers check for \$355.00

Post Office Address:

P.O. Box 1047

Cortez, CO 81321

Name: George Mockry

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OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Greg M. Mockry (et al.)
Filed: Concurrently herewith
For: **METHOD OF RECORDING AND
PLAYING BASEBALL GAME SHOWING
EACH BATTER'S LAST PITCH**

Atty Doc. No.: 530.005PPA
Group Art Unit:
Examiner:

COMMISSIONER OF PATENTS AND TRADEMARKS
WASHINGTON, D.C. 20231

VERIFIED STATEMENT (DECLARATION) CLAIMING
SMALL ENTITY STATUS (37 CFR 1.9(f) and 1.27(b))
- INDEPENDENT INVENTOR

Sir:

As the below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 CFR 1.9(c), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office with regard to the invention entitled: **METHOD OF RECORDING AND PLAYING BASEBALL GAME SHOWING EACH BATTER'S LAST PITCH**, as described in the specification filed herewith.

I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

☒ [X] no such person, concern, or organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Greg M. Mockry
Name of inventor

185 Cook Road, Massena, NY 13662
Address of inventor


Signature of inventor

Date

5/30/00

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| DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63) <input checked="" type="checkbox"/> Declaration Submitted with Initial Filing OR <input type="checkbox"/> Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required) | Attorney Docket Number | |
| | First Named Inventor | MOCKRY, GEORGE |
| | COMPLETE IF KNOWN | |
| | Application Number | / |
| | Filing Date | |
| | Group Art Unit | |
| | Examiner Name | |

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

METHOD OF RECORDING AND PLAYING BASEBALL GAME SHOWING EACH BATTER'S LAST PITCH

the specification of which

(Title of the invention)

☒ is attached hereto
 OR

☐ was filed on (MM/DD/YYYY) [] as United States Application Number or PCT International

Application Number [] and was amended on (MM/DD/YYYY) [] (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT International application having a filing date before that of the application on which priority is claimed.

| Prior Foreign Application Number(s) | Country | Foreign Filing Date (MM/DD/YYYY) | Priority Not Claimed | Certified Copy Attached? | |
|-------------------------------------|---------|----------------------------------|--------------------------|--------------------------|--------------------------|
| N/A | | | <input type="checkbox"/> | YES | NO |
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I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

| Application Number(s) | Filing Date (MM/DD/YYYY) | <input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto. |
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| 60/211,208 | 06/13/2000 | |

(Page 1 of 2) 3

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U.S. Parent Application or PCT Parent
NumberParent Filing Date
(MM/DD/YYYY)Parent Patent Number
(if applicable)

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As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: ☐ Customer Number ☐ OR ☐ Registered practitioner(s) name/registration number listed below

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| | | | | |
|---------|-----------------------|-----|--|--|
| Name | GEORGE MICHAEL MOCKRY | | | |
| Address | | | | |
| Address | | | | |
| City | State | ZIP | | |
| Country | Telephone | Fax | | |

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of ~~Best~~ First Inventor: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))

Family Name or Surname

✓ GEORGE MICHAEL

✓ MOCKRY

Inventor's
Signature

✓ George Mockry

Date

✓ 6-8-01

Residence: City

✓ CORTEZ

State

CO.

Country

MONTAZUMA

Citizenship

YES

Post Office Address

✓ P.O. BOX 1047

Post Office Address

City

CORTEZ

State

81321

ZIP

MONTAZUMA

Country

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DECLARATION — Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 35(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

| U.S. Parent Application or PCT Parent Number | Parent Filing Date (MM/DD/YYYY) | Parent Patent Number (if applicable) |
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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| Name of ^{SECOND} First Inventor: | | <input type="checkbox"/> A petition has been filed for this unsigned inventor | |
| Given Name (first and middle if any) | | Family Name or Surname | |
| ✓ GREGORY, MICHAEL | | ✓ MOCKRY | |
| Inventor's Signature | ✓ | Date | |
| Residence: City | State | Country | Citizenship |
| Post Office Address | 185 COOK ST. | | |
| Post Office Address | | | |
| City | State | ZIP | Country |
| MASSENA | N.Y. | 13662 | |

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| APPLICATION NUMBER | FILING DATE | GRP ART UNIT | RL FEE REC'D | ATTY. DOCKET NO. | DRAWINGS | TOT CLAIMS | IND CLAIMS |
|--------------------|-------------|--------------|--------------|------------------|----------|------------|------------|
| 09/878,860 | 06/09/2001 | 3711 | 355 | | | 3 | 3 |

CONFIRMATION NO. 8653

FILING RECEIPT



OC00000007221482

George Mockry
P. O. Box 1047
Cortez, CO 81321

Date Mailed: 12/20/2001

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Gregory Michael Mockry, Massena, NY;
George Michael Mockry, Cortez, CO;

Domestic Priority data as claimed by applicant

THIS APPLN CLAIMS BENEFIT OF 60/211,208 06/13/2000

Foreign Applications

* If Required, Foreign Filing License Granted 12/20/2001

* Projected Publication Date: 03/28/2002 ?

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Baseball Quick

Preliminary Class

463

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|--------------------|-------------|--------------|---------------|-----------------|----------|------------|------------|
| 60/211,208 | 06/13/2000 | | 75 | 530.005PPA | | | |

Bernhard P Molldrem Jr.
Trapani & Molldrem
333 East Onondaga Street
Syracuse, NY 13202

FILING RECEIPT



OC000000005365994

Date Mailed: 08/30/2000

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Applicant(s)

Greg M. Mockry, Massena, NY ;
George Mockry, Sheridan, WY ;

Continuing Data as Claimed by Applicant

Foreign Applications

If Required, Foreign Filing License Granted 08/30/2000

** SMALL ENTITY **

Title

Method of recording and playing baseball game showing each batter's last pitch

Preliminary Class

Data entry by : JONES, PATRICIA

Team : OIPE

Date: 08/30/2000



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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|---------------------|------------------------|------------------------|
| 09/878,860 | 06/09/2001 | Gregory Michael Mockry | |

CONFIRMATION NO. 8653

FORMALITIES LETTER



OC000000007654345

George Mockry
P. O. Box 1047
Cortez, CO 81321

Date Mailed: 03/15/2002

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

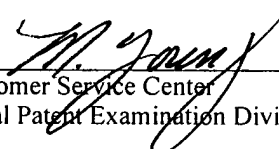
A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)).

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- The specification does not include a written description of the invention.
A complete specification as prescribed by 35 U.S.C. 112 is required.

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US 20030060311A1

(19) **United States**(12) **Patent Application Publication** (10) Pub. No.: **US 2003/0060311 A1**
Mockry et al. (43) Pub. Date: **Mar. 27, 2003**(54) **METHOD OF RECORDING AND PLAYING
BASEBALL GAME SHOWING EACH
BATTER'S LAST PATCH****Related U.S. Application Data**(60) Provisional application No. 60/211,208, filed on Jun.
13, 2000.(76) Inventors: **George Michael Mockry, Cortez, CO
(US); Gregory Michael Mockry,
Massena, NY (US)****Publication Classification**(51) Int. Cl.⁷ **A63B 71/02; A63F 9/24**
(52) U.S. Cl. **473/468; 463/42****Correspondence Address:**
Bernhard P Mollidrem Jr
333 East Onondage Street
Syracuse, NY 13202 (US)(57) **ABSTRACT**
A recorded complete baseball game is condensed into about fifteen minutes of action. All of the at-bat appearances of the players, in turn, are recorded, and then the recorded game is edited to leave only the last pitch thrown to each player, plus any action ensuing after that pitch and any attempts of runners to advance to another base and any other outs, such as a runner as being picked off base. Then the recorded edited game is presented to viewers as a condensed game. The condensed game can be presented to subscribers over the Internet, or may be presented on film or as a video recording.(21) Appl. No.: **09/878,860**(22) Filed: **May 10, 2002****RECEIVED**

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METHOD OF RECORDING AND PLAYING BASEBALL GAME SHOWING EACH BATTER'S LAST PITCH

[0001] This invention relates to a method of condensing the action portions of a baseball game or other sporting event, by recording the game on film or video tape, and editing it to retain the action portions, i.e., the last pitch thrown to the batters for each turn at the plate.

[0002] There are nine players in the field, i.e., on defense, at positions of catcher, pitcher, first base, second base, shortstop, third base, left field, center field and right field. The batting, or offensive, team bats one player at a time, in turn. Each team's half-inning ends when the three outs have been recorded. An out can occur for a given batter only when the batter has struck out or batted the ball into play, although a batter can remain at the plate if a base runner is tagged out, i.e., in a pick-off or if caught stealing. The player can only advance legally to first and be a base runner as a result of the last pitch thrown to him in a given turn at the plate, i.e., he can hit safely, be awarded a base on balls, be struck by a pitch, or strike out and reach first safely after a dropped or passed third strike. Any runners on base advance under these circumstances or are tagged or forced out. There are other ways a base runner can advance before a batter's turn comes to an end, for example, by stealing base, or on account of a wild pitch or a balk.

[0003] During a baseball game, there is considerable time taken during each half inning in which there is only limited action on the field. For example, for a given player's turn at bat, there can be six or more pitches thrown before the player hits the ball into play, strikes out, or walks. In addition, there is often a great deal of time used in pick off attempts and conferences in the infield, and in changing places between half-innings. A nine-inning game can typically last between two and three hours, and sometimes longer.

[0004] In accordance with an aspect of this invention, a film or video record is made of each player's turn at bat. The video record, which can be film, digital, or tape, is edited down to retain the last pitch thrown to each player, plus any resulting action for that pitch. This would record each safe base hit, each walk, strike out, sacrifice fly, ground out, etc. Of course, fielding would be recorded, i.e., each put-out, error, double-play, and throw-out. The resulting video record would be about 10 to 15 minutes, showing all the action of the game. Base running activity (i.e., activity that can also result in either an out or advancement of the runner) can also be retained, such as stolen bases and attempted steals, pickoffs, rundowns, balks, and wild pitches. Some additional material (e.g., narrative) can be included to explain pitching changes, pinch runners, and other substitutions that may affect play.

[0005] The completed (edited) version can be sold on a per-game basis, i.e., through a cable subscription arrangement, or delivered digitally over the Internet to subscribers, perhaps using a password and PIN assigned to the subscriber. The 10 to 15 minute video can also be used by professional scouts and others for purposes of player evaluation. The editing could take place immediately after each play, so that the recorded video could be released to its viewership immediately after the game. Each inning or half-inning can be packaged as a unit, if desired. This could increase interest in baseball, by making the game available,

on a near-real-time basis, to fans some distance from the ball park, i.e., 75 miles or more. This could also permit satellite viewing of the game at remote locations, without requiring the full bandwidth that is needed for an unedited version or live telecast.

[0006] This procedure and the resulting action video can be used for other sports as well. In track and field, the last attempt or heat of each event could be recorded, e.g., the last pole-vault attempt for each athlete competing, and the last twenty meters of each race or heat. The invention would likewise apply in swimming and diving, or in figure skating. In horse racing, the final stretch and finish of each race would be recorded. This invention could also be adapted to baseball-related sports such as fast-pitch softball and cricket. The invention can be applied to net sports, e.g., capturing all game points in a tennis match, and capturing each score in volleyball. This system can also be adapted to show the important action in goal sports such as hockey, lacrosse, basketball, soccer, rugby, and football. The invention can also be used to feature target sports, i.e., to follow all the shots of a given player in golf or in billiards, or every roll in bowling.

1. I claim the name "Baseball Quick" as our trademark. The name is an integral part of our invention and describes in 2 words how a fan can view a baseball game. "Baseball Quick" is a method of recording and editing a baseball game by showing only the last pitch to each batter and any subsequent action. Any action between the last pitch of any batter to the last pitch of another batter shall also be recorded. The result shall be a complete game of every player at bat in approximately 15 minutes.

2. I claim that this method of dispensing a baseball game can be used in the following medias. Television, Radio, Internet, Telephone, and Pagers.

3. I claim there are many ways "Baseball Quick" can be shown or heard. For example it can be dispensed, a) inning by inning while the game is in progress, b) 3rd inning, or 6th inning review while the game is in progress, or c) the whole game shown or heard after the game is over, d) all of the above can also be dispensed on the internet, telephone, pay per view or any hand held device. Finally, all these methods can be repeated at prime time slots or the next morning.

4. A method of recording and editing a baseball game in which players from each side appear at bat, in turn, and attempt to place a pitched baseball into play and reach base safely; with players failing to reach base safely being out and players on base attempting unsuccessfully to advance to another base being out; the method comprising:

recording the appearances-at-bat for each player, in turn, plus other action that ensues during or after the appearances-at-bat;

editing the recorded appearances-at-bat to leave only the last pitch thrown to each player, plus any action ensuing after that pitch and any attempts of runners on base to advance to another base; and

presenting the edited recorded game as a condensed recorded game showing important action portions of the game.

5. The method according to claim 4 wherein said editing includes omitting all pitches that do not result in either the

player at bat placing the ball into play, producing an out, or the player at bat or another player on base advancing to another base.

6. The method according to claim 4 wherein the edited recorded game is about 15 minutes for a nine-inning game.

7. The method according to claim 4 wherein said edited recorded game comprises only a specific portion of the game.

8. The method according to claim 4 wherein said step of presenting the edited game as a condensed recorded game

includes delivering the recorded game to subscribers over the Internet.

9. The method according to claim 4 wherein said step of presenting the edited game as a condensed recorded game includes distributing the recorded game as a video recording.

10. The method according to claim 4 wherein the step of editing leaves in narrative material to explain substitution of players.

* * * * *